IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 21343 of 1994

Between:

1 Smt. Shashi Bansal W/o Mahendra Pal Bansal, C/o. Bansal

Industrial Corporation, 11/181/A Fateh Nagar, Hyderabad.
2 Sri. Ramesh Kumar Karnani, S/o. Sri Ram Kumar Karnani
162, Shantiniketan Colony, Sewa Mandal Society,

Secunderabad - 500 026.
3 Sri Sohan Lall Karnani, S/o. Late Rawarmull Karnani,
162,Shantiniketan Colony, Sewa Mandal Society,

Secunderabad - 500 026.
4 Sanjay Kumar Karnani, HUF, S/o. Late Kishan Lall Karnani,
162, Shantiniketan colony, Sewa mandal Society,

Secunderabad - 500 026.

..... PETITIONERS

AND

1 Office of the Appropriate Authority: Income Tax Department

rep. by its Members, namely; Smt. R.P. Rahamani,
B.Rama Kumar, P.K. Ratho, vth Floor, Central Revenue Building,

Annexxe, Queen Road, Post Box No. 5005,
Bangalore - 560 001.
2 Income Tax Officer, Ward 5 (4) Aykar Bhavan, Hyderabad.
3 The Sub-Registrar, (Dismissed) West Marredpally,

Secunderabad

(Against R3 dismissed for default vide Court Order dated 15-12-1999)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction preferably in the nature of a writ of certiorari, by calling for the records pertaining to file No: AA/BNG/Hyd/8(13)(11)/94-95 on the file of the Ist respondent and upon an perusal of the same quash and set aside the order of the Ist respondent dt. 28.11.94 passed U/s 269 UD (1) of the I.T. Act, 1961, bearing No. AA/BNG/Hyd/8(13)(11)/94-95.

Counsel for the Petitioner:MR.MILIND G GOKHALE

Counsel for the Respondent No.: MR.S.R.ASHOK (SC FOR INCOME TAX)

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki).

Heard learned counsel for the parties.

An order was passed in terms of Section 269UD (1) of the Income-Tax Act, 1961 (for short "the Act") with respect to the immovable property, ordering the purchase of the property, on the ground that the sale had been entered into by showing a lesser value of the property. Petitioner No.1 was the seller, who entered into a sale agreement for an amount of Rs.14,85,000/- with petitioner No.2. They informed the income tax authorities accordingly in terms of Section 269UC of the Act. After the enquiries, contemplated under various provisions of the Act, the appropriate authority came to the conclusion that the property had been under valued and passed the order of purchase. Aggrieved by this order, the writ petition has been filed.

The case of the petitioners was that although it was a fact that petitioner No.1 had entered into an agreement of sale with petitioner No.2, but that agreement did not culminate into sale and a new agreement came into existence by petitioner No.1 with petitioner Nos. 2 to 4. By this agreement, the property was agreed to be sold not only to petitioner No.2, but the property was being sold in equal shares to petitioner Nos. 2 to 4 and ultimately sale deeds were also executed by petitioner No.1 in favour of petitioner Nos.2 to 4. These three sale deeds were for an amount of less than Rs.5 lakhs, and as such the authorities had no jurisdiction to entertain any dispute with regard to valuation of the property covered under Chapter XX-C or Section 269 of the Act.

However, learned senior counsel appearing for the respondents submits that the sale deeds were not the documents, which had to be taken into consideration. In view of Section 269UK of the Act, what was to be taken into consideration was the sale agreement, which had been placed before the authorities by petitioner No.1 herself.

Learned counsel for the petitioners has further pointed out certain discrepancies in the evidence where the relevant material was not taken into consideration by the appropriate authority for the purpose of valuing the property. He submits that the value of the property was compared to a property, which was near Railway Station, Secunderabad and was 3 ½ kilometers away from the schedule property.

We have not found any material in the order suggesting that the property, which was close in value to the property in question, was taken into consideration for valuation of the schedule property and for this reason, we set aside the impugned order and remand the case back to the appropriate authority for fresh decision.

The parties shall be at liberty to adduce additional evidence before the appropriate authority, so that the appropriate authority is in a position to find out the real value of the property.

The writ petition is accordingly allowed. No order as to costs.

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(BILAL NAZKI, J)

1st September, 2004.

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(S.ANANDA REDDY, J)

vrn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the first day of September, Two thousand and Four.

To

1 The Members, Office of the Appropriate Authority: Income Tax,

V-Floor, Central Revenue Building, Annexxe, Queen Road, Post

Box No. 5005, Bangalore - 560 001.

2 Income Tax Officer, Ward 5 (4) Aykar Bhavan, Hyderabad.

3 Two C.D copies.